

## Securities and Exchange Commission

## § 201.43

to an administrative law judge for determination.

[54 FR 53051, Dec. 27, 1989]

### § 201.41 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant, the proceeding for which an award is sought and contain the information required in this subpart. The application shall show that the applicant has prevailed and specify the position(s) of the opposing Office or Division in the proceeding that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed \$2 million (if an individual) or \$7 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes the Commission to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the infor-

mation provided in the application is true and correct.

[47 FR 610, Jan. 6, 1982, as amended at 54 FR 53051, Dec. 27, 1989]

### § 201.42 Net worth exhibit.

(a) Each applicant, except a qualified tax-exempt organization or cooperative association, must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 201.34(f) of this part) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this subpart. The administrative law judge or the Commission may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that exhibit in accordance with 17 CFR 201.190.

[47 FR 610, Jan. 6, 1982, as amended at 60 FR 32795, June 23, 1995]

### § 201.43 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The applicant may be required to provide